

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1179

Introduced by Senator Walters

February 22, 2012

~~An act relating to taxation.~~ *An act to add and repeal Sections 17053.81 and 23625 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1179, as amended, Walters. Income taxes: credit: manufacturers.

The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit in an amount equal to \$3,000 for each full-time employee hired during the taxable year by a qualified employer, as defined.

This bill would authorize a credit against the taxes imposed by the Personal Income Tax Law and the Corporation Tax Law in an amount equal to \$3,000 for each disabled veteran, as defined, hired as a qualified full-time employee during the taxable year by a qualified employer, as defined.

This bill would take effect immediately as a tax levy.

~~The Personal Income Tax Law and the Corporation Tax Law authorize various credits against taxes imposed by those laws.~~

~~This bill would state the intent of the Legislature to enact legislation that would authorize a credit against those taxes for manufacturers that hire disabled employees.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17053.81 is added to the Revenue and*
2 *Taxation Code, to read:*

3 17053.81. (a) *For each taxable year beginning on or after*
4 *January 1, 2013, there shall be allowed as a credit against the*
5 *“net tax,” as defined in Section 17039, three thousand dollars*
6 *(\$3,000) for each net increase in qualified full-time employees, as*
7 *specified in subdivision (c), hired during the taxable year by a*
8 *qualified employer.*

9 (b) *For purposes of this section:*

10 (1) *“Acquired” includes any gift, inheritance, transfer incident*
11 *to divorce, or any other transfer, whether or not for consideration.*

12 (2) *“Qualified full-time employee” means any of the following:*

13 (A) *An employee who is a disabled veteran, as defined in Section*
14 *999 of the Military and Veterans Code, who was paid qualified*
15 *wages during the taxable year by the qualified employer for*
16 *services of not less than an average of 35 hours per week.*

17 (B) *An employee who is a disabled veteran, as defined in Section*
18 *999 of the Military and Veterans Code, who was a salaried*
19 *employee and was paid compensation during the taxable year for*
20 *full-time employment, within the meaning of Section 515 of the*
21 *Labor Code, by the qualified employer.*

22 (3) *A “qualified employee” shall not include any of the*
23 *following:*

24 (A) *An employee certified as a qualified employee in an*
25 *enterprise zone designated in accordance with Chapter 12.8*
26 *(commencing with Section 7070) of Division 7 of Title 1 of the*
27 *Government Code.*

28 (B) *An employee certified as a qualified disadvantaged*
29 *individual in a manufacturing enhancement area designated in*
30 *accordance with Section 7073.8 of the Government Code.*

31 (C) *An employee certified as a qualified employee in a targeted*
32 *tax area designated in accordance with Section 7097 of the*
33 *Government Code.*

34 (D) *An employee whose wages are included in calculating any*
35 *other credit allowed under this part.*

36 (4) *“Qualified employer” means a taxpayer that is primarily*
37 *engaged in the lines of business classified in Code 339113 of the*
38 *North American Industry Classification System (NAICS) published*

1 *by the United States Office of Management and Budget (OMB),*
2 *2012 edition.*

3 (5) *“Qualified wages” means wages subject to Division 6*
4 *(commencing with Section 13000) of the Unemployment Insurance*
5 *Code.*

6 (6) *“Annual full-time equivalent” means either of the following:*

7 (A) *In the case of a full-time employee paid hourly qualified*
8 *wages, “annual full-time equivalent” means the total number of*
9 *hours worked for the taxpayer by the employee (not to exceed*
10 *2,000 hours per employee) divided by 2,000.*

11 (B) *In the case of a salaried full-time employee, “annual*
12 *full-time equivalent” means the total number of weeks worked for*
13 *the taxpayer by the employee divided by 52.*

14 (c) *The net increase in qualified full-time employees of a*
15 *qualified employer shall be determined as provided by this*
16 *subdivision:*

17 (1) (A) *The net increase in qualified full-time employees shall*
18 *be determined on an annual full-time equivalent basis by*
19 *subtracting from the amount determined in subparagraph (C) the*
20 *amount determined in subparagraph (B).*

21 (B) *The total number of qualified full-time employees employed*
22 *in the preceding taxable year by the taxpayer and by any trade or*
23 *business acquired by the taxpayer during the current taxable year.*

24 (C) *The total number of full-time employees employed in the*
25 *current taxable year by the taxpayer and by any trade or business*
26 *acquired during the current taxable year.*

27 (2) *For taxpayers who first commence doing business in this*
28 *state during the taxable year, the number of full-time employees*
29 *for the immediately preceding prior taxable year shall be zero.*

30 (d) *In the case where the credit allowed by this section exceeds*
31 *the “net tax,” the excess may be carried over to reduce the “net*
32 *tax” in the following year, and succeeding seven years if necessary,*
33 *until the credit is exhausted.*

34 (e) *Any deduction otherwise allowed under this part for qualified*
35 *wages shall not be reduced by the amount of the credit allowed*
36 *under this section.*

37 (f) *For purposes of this section:*

38 (1) *All employees of the trades or businesses that are treated*
39 *as related under either Section 267, 318, or 707 of the Internal*
40 *Revenue Code shall be treated as employed by a single taxpayer.*

1 (2) *In determining whether the taxpayer has first commenced*
2 *doing business in this state during the taxable year, the provisions*
3 *of subdivision (f) of Section 17276.20, without application of*
4 *paragraph (7) of that subdivision, shall apply.*

5 (g) (1) (A) *Credit under this section and Section 23625 shall*
6 *be allowed only for credits claimed on timely filed original returns*
7 *received by the Franchise Tax Board on or before the cut-off date*
8 *established by the Franchise Tax Board.*

9 (B) *For purposes of this paragraph, the cut-off date shall be*
10 *the last day of the calendar quarter within which the Franchise*
11 *Tax Board estimates it will have received timely filed original*
12 *returns claiming credits under this section and Section 23625 that*
13 *cumulatively total one hundred million dollars (\$100,000,000) for*
14 *all taxable years.*

15 (2) *The date a return is received shall be determined by the*
16 *Franchise Tax Board.*

17 (3) (A) *The determinations of the Franchise Tax Board with*
18 *respect to the cut-off date, the date a return is received, and*
19 *whether a return has been timely filed for purposes of this*
20 *subdivision may not be reviewed in any administrative or judicial*
21 *proceeding.*

22 (B) *Any disallowance of a credit claimed due to a determination*
23 *under this subdivision, including the application of the limitation*
24 *specified in paragraph (1), shall be treated as a mathematical*
25 *error appearing on the return. Any amount of tax resulting from*
26 *such disallowance may be assessed by the Franchise Tax Board*
27 *in the same manner as provided by Section 19051.*

28 (4) *The Franchise Tax Board shall periodically provide notice*
29 *on its Internet Web site with respect to the amount of credit under*
30 *this section and Section 23625 claimed on timely filed original*
31 *returns received by the Franchise Tax Board.*

32 (h) (1) *The Franchise Tax Board may prescribe rules,*
33 *guidelines, or procedures necessary or appropriate to carry out*
34 *the purposes of this section, including any guidelines regarding*
35 *the limitation on total credits allowable under this section and*
36 *Section 23625 and guidelines necessary to avoid the application*
37 *of paragraph (2) of subdivision (f) through split-ups, shell*
38 *corporations, partnerships, tiered ownership structures, or*
39 *otherwise.*

1 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of
2 Division 3 of Title 2 of the Government Code does not apply to
3 any standard, criterion, procedure, determination, rule, notice, or
4 guideline established or issued by the Franchise Tax Board
5 pursuant to this section.

6 (i) This section shall remain in effect only until December 1 of
7 the calendar year after the year of the cut-off date, and as of that
8 December 1 is repealed.

9 SEC. 2. Section 23625 is added to the Revenue and Taxation
10 Code, to read:

11 23625. (a) For each taxable year beginning on or after
12 January 1, 2013, there shall be allowed as a credit against the
13 "tax," as defined in Section 23036, three thousand dollars (\$3,000)
14 for each net increase in qualified full-time employees, as specified
15 in subdivision (c), hired during the taxable year by a qualified
16 employer.

17 (b) For purposes of this section:

18 (1) "Acquired" includes any gift, inheritance, transfer incident
19 to divorce, or any other transfer, whether or not for consideration.

20 (2) "Qualified full-time employee" means any of the following:

21 (A) An employee who is a disabled veteran, as defined in Section
22 999 of the Military and Veterans Code, who was paid qualified
23 wages during the taxable year by the qualified employer for
24 services of not less than an average of 35 hours per week.

25 (B) An employee who is a disabled veteran, as defined in Section
26 999 of the Military and Veterans Code, who was a salaried
27 employee and was paid compensation during the taxable year for
28 full-time employment, within the meaning of Section 515 of the
29 Labor Code, by the qualified employer.

30 (3) A "qualified employee" shall not include any of the
31 following:

32 (A) An employee certified as a qualified employee in an
33 enterprise zone designated in accordance with Chapter 12.8
34 (commencing with Section 7070) of Division 7 of Title 1 of the
35 Government Code.

36 (B) An employee certified as a qualified disadvantaged
37 individual in a manufacturing enhancement area designated in
38 accordance with Section 7073.8 of the Government Code.

1 (C) An employee certified as a qualified employee in a targeted
2 tax area designated in accordance with Section 7097 of the
3 Government Code.

4 (D) An employee whose wages are included in calculating any
5 other credit allowed under this part.

6 (4) “Qualified employer” means a taxpayer that is primarily
7 engaged in the lines of business classified in Code 339113 of the
8 North American Industry Classification System (NAICS) published
9 by the United States Office of Management and Budget (OMB),
10 2012 edition.

11 (5) “Qualified wages” means wages subject to Division 6
12 (commencing with Section 13000) of the Unemployment Insurance
13 Code.

14 (6) “Annual full-time equivalent” means either of the following:

15 (A) In the case of a full-time employee paid hourly qualified
16 wages, “annual full-time equivalent” means the total number of
17 hours worked for the taxpayer by the employee (not to exceed
18 2,000 hours per employee) divided by 2,000.

19 (B) In the case of a salaried full-time employee, “annual
20 full-time equivalent” means the total number of weeks worked for
21 the taxpayer by the employee divided by 52.

22 (c) The net increase in qualified full-time employees of a
23 qualified employer shall be determined as provided by this
24 subdivision:

25 (1) (A) The net increase in qualified full-time employees shall
26 be determined on an annual full-time equivalent basis by
27 subtracting from the amount determined in subparagraph (C) the
28 amount determined in subparagraph (B).

29 (B) The total number of qualified full-time employees employed
30 in the preceding taxable year by the taxpayer and by any trade or
31 business acquired by the taxpayer during the current taxable year.

32 (C) The total number of full-time employees employed in the
33 current taxable year by the taxpayer and by any trade or business
34 acquired during the current taxable year.

35 (2) For taxpayers who first commence doing business in this
36 state during the taxable year, the number of full-time employees
37 for the immediately preceding prior taxable year shall be zero.

38 (d) In the case where the credit allowed by this section exceeds
39 the “tax,” the excess may be carried over to reduce the “tax” in

1 *the following year, and succeeding seven years if necessary, until*
2 *the credit is exhausted.*

3 *(e) Any deduction otherwise allowed under this part for qualified*
4 *wages shall not be reduced by the amount of the credit allowed*
5 *under this section.*

6 *(f) For purposes of this section:*

7 *(1) All employees of the trades or businesses that are treated*
8 *as related under either Section 267, 318, or 707 of the Internal*
9 *Revenue Code shall be treated as employed by a single taxpayer.*

10 *(2) In determining whether the taxpayer has first commenced*
11 *doing business in this state during the taxable year, the provisions*
12 *of subdivision (g) of Section 24416.20, without application of*
13 *paragraph (7) of that subdivision, shall apply.*

14 *(g) (1) (A) Credit under this section and Section 17053.81 shall*
15 *be allowed only for credits claimed on timely filed original returns*
16 *received by the Franchise Tax Board on or before the cut-off date*
17 *established by the Franchise Tax Board.*

18 *(B) For purposes of this paragraph, the cut-off date shall be*
19 *the last day of the calendar quarter within which the Franchise*
20 *Tax Board estimates it will have received timely filed original*
21 *returns claiming credits under this section and Section 17053.81*
22 *that cumulatively total one hundred million dollars (\$100,000,000)*
23 *for all taxable years.*

24 *(2) The date a return is received shall be determined by the*
25 *Franchise Tax Board.*

26 *(3) (A) The determinations of the Franchise Tax Board with*
27 *respect to the cut-off date, the date a return is received, and*
28 *whether a return has been timely filed for purposes of this*
29 *subdivision may not be reviewed in any administrative or judicial*
30 *proceeding.*

31 *(B) Any disallowance of a credit claimed due to a determination*
32 *under this subdivision, including the application of the limitation*
33 *specified in paragraph (1), shall be treated as a mathematical*
34 *error appearing on the return. Any amount of tax resulting from*
35 *such disallowance may be assessed by the Franchise Tax Board*
36 *in the same manner as provided by Section 19051.*

37 *(4) The Franchise Tax Board shall periodically provide notice*
38 *on its Internet Web site with respect to the amount of credit under*
39 *this section and Section 17053.81 claimed on timely filed original*
40 *returns received by the Franchise Tax Board.*

1 (h) (1) *The Franchise Tax Board may prescribe rules,*
2 *guidelines, or procedures necessary or appropriate to carry out*
3 *the purposes of this section, including any guidelines regarding*
4 *the limitation on total credits allowable under this section and*
5 *Section 17053.81 and guidelines necessary to avoid the application*
6 *of paragraph (2) of subdivision (f) through split-ups, shell*
7 *corporations, partnerships, tiered ownership structures, or*
8 *otherwise.*

9 (2) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
10 *Division 3 of Title 2 of the Government Code does not apply to*
11 *any standard, criterion, procedure, determination, rule, notice, or*
12 *guideline established or issued by the Franchise Tax Board*
13 *pursuant to this section.*

14 (i) *This section shall remain in effect only until December 1 of*
15 *the calendar year after the year of the cut-off date, and as of that*
16 *December 1 is repealed.*

17 SEC. 3. *This act provides for a tax levy within the meaning of*
18 *Article IV of the Constitution and shall go into immediate effect.*

19 ~~SECTION 1.—It is the intent of the Legislature to enact~~
20 ~~legislation that would authorize a credit against the taxes imposed~~
21 ~~by the Personal Income Tax Law and the Corporation Tax Law~~
22 ~~for manufacturers that hire disabled employees.~~